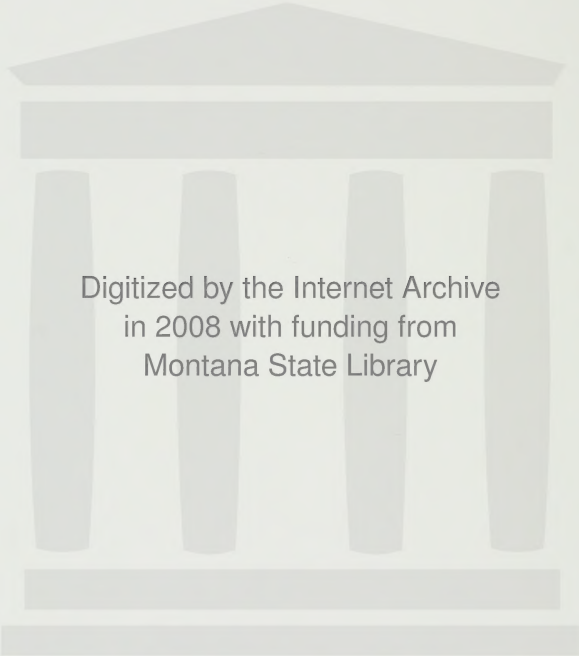


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# THE INTERIM

JULY 1996

HELENA, MONTANA

VOL. X NO. 14

## LEGISLATIVE COUNCIL

Council Accepts NCSL Report on Classification and Pay...The Legislative Council met June 14 and accepted the report of the NCSL Classification and Pay Plan and instructed the directors to prepare an implementation plan for ultimate approval. The Council's action followed a final meeting of the Joint Personnel Subcommittee on the evening of June 13 and was concurred in by the Finance Committee and the Audit Committee meeting jointly.

The recommendations of the NCSL team are:

1. The Legislative Council, with the concurrence of the Legislative Audit Committee and Legislative Finance Committee, should adopt the proposed classification plan (which is detailed in the report.)
2. Career path promotions should be made to positions included in the recommended plan based on demonstrated ability to perform the tasks associated with the higher level class without regard to position vacancies in the higher class.
3. Division directors, managers, and the proposed personnel officer should work with individual employees as appropriate to develop or refine existing job descriptions.
4. The Legislative Council, with the concurrence of the Legislative Audit Committee and the Legislative Finance Committee, should adopt the proposed salary ranges for legislative positions. (These ranges are detailed in the report

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and were identified to match market survey data conducted by the study team.)

5. The Legislative Council, with the concurrence of the Legislative Audit Committee and the Legislative Finance Committee, should adopt one compensatory time and overtime policy for legislative staff in all divisions. With respect to support staff, directors should consider the option of awarding compensatory time off in lieu of overtime pay.
6. The Legislative Council, with the concurrence of the Legislative Audit Committee and Legislative Finance Committee, should adopt a compensation system for fiscal year 1997 that based annual adjustments on the target market ratios used by the executive branch. Under this approach the method for calculating the annual adjustments would be the same as that used for executive branch employees. Because the proposed legislative salary ranges encompass two executive branch pay grades, the target market ratio should be applied to the market salary of the executive branch pay grade that the legislative staff person's salary falls within. This system is consistent with current state law.
7. The current policy for awarding longevity increases as well as other benefits such as health and retirement should remain the same.
8. Career path promotions and promotions to positions in higher salary levels should be based on merit. The three committees should seek legislation to change current state law to create an open range system with annual increases based on merit. Because of the timing of the legislative session, this system cannot be put into place until fiscal year 1998 at the earliest.
9. The directors should adopt adjustments to current salaries that are based on moving to the new compensation system. A roster of permanent legislative employees and the recommended salaries will be submitted to the directors.
10. The directors should develop a plan for implementing the recommendations contained in the report that have been adopted by the Legislative Council with the concurrence of the Legislative Audit Committee and the Legislative Finance Committee. This plan should include, but not be limited to, policies and procedures for performance appraisals, promotions,

requests for reclassifications, surveys of comparable salaries, compensatory time, flexible time, and leave.

11. The directors should adopt a consistent policy for conducting performance appraisals. An effective method for developing this policy is to establish an internal work group composed of staff to review and update the current performance appraisal processes used by each division. This work group should identify the most important performance factors and develop specific criteria for measuring them. A performance appraisal process should be developed that is tied to the duties and responsibilities outlined in the position description for each job and applied consistently throughout the legislative branch. Because the nature of work varies among the divisions, there may be a need to measure factors unique to specific divisions. However, a core set of performance criteria should be developed and assessed uniformly throughout the legislature. In developing its performance appraisal system, the directors should consider developing a means, where appropriate, to gather feedback from multiple reviewers such as peers, subordinates, and legislators, in addition to supervisors. The directors should also consider developing a system that provides staff with the opportunity to complete and discuss a self-appraisal with their supervisors.
12. A performance appraisal should be conducted for all staff at least once per year. The current process followed in the Legislative Audit Division of evaluating performance following every project of 80 hours or more should be continued. The appraisal process should focus on providing an opportunity for communication and feedback, to identify areas for staff development as well as evaluating performance. The performance appraisal should be conducted as a part of the process for deciding career path promotions.
13. It is important that performance appraisals are consistently applied throughout the Legislature. To encourage consistency, the directors should provide in-depth training for all staff (with an emphasis on supervisors) on the methods for conducting effective performance appraisals. This training should review the performance appraisal instrument and emphasize the importance of ongoing, effective communication between supervisors and staff. In addition, the division directors with assistance from the proposed personnel officer should review all performance appraisals to ensure that performance criteria are being consistently applied throughout the Legislature.



14. The Legislative Services Division should hire a full-time person with expertise in personnel and human resources issues to develop and maintain a comprehensive and uniform personnel system for the Legislature. A personnel officer would also ensure that, once created, the Legislature's system is consistently applied throughout the legislative branch.
15. The personnel officer working with the division directors should develop a handbook for all staff. The handbook should provide a comprehensive description of the Legislative Branch's personnel policies, including the rules and procedures relating to the classification and compensation system, compensatory time policy, performance appraisal process, and benefits offered to legislative employees. The handbook should be distributed to all permanent staff of the legislative branch and provided to all new staff during an orientation to the legislative branch.
16. Periodic training on personnel related topics should be offered as part of the legislative branch training initiatives currently being developed. Topics such as conducting effective performance appraisals, personnel law, and communications skills should be emphasized.
17. Any staff person who disagrees with the classification of their position as recommended in the plan should have an appeal. As part of the appeal, the staff person should complete an evaluation of their job using the point factor plan used by the NCSL study team and compare the skills, knowledge and abilities required for their position with other positions within the legislative branch. The staff should first present their appeal to the director of their division. The director of their division will make a recommendation to the other division directors based on the information presented by the staff person. The staff person has the right to present their case directly to all of the division directors. The division directors will decide on the appropriate classification of all positions and report the results of their decision to the staff person who initiated the appeal. If a full-time personnel officer is hired, that officer could be directed to review the position being appealed using the point factor plan and present a recommendation to the division directors.
18. At least once every two years, comparable market salary data should be gathered for legislative positions. Tying legislative salary ranges to the executive branch pay grades will make this process easier. Entry level and market salaries for

legislative salary ranges will be updated as entry level and market salaries for executive branch pay grades are adjusted. Based on the comparable market data, the directors should review the process of tying legislative salaries to executive branch pay grades, assess its effectiveness, and make any necessary adjustments in the executive branch pay grades used for the legislature's salary ranges.

19. The overall classification and compensation plan should be continuously reviewed to ensure that the legislative branch remains competitive in its compensation practices and that there is internal equity between positions throughout the branch. Job descriptions should be updated to reflect changes in qualifications, responsibilities, and skills. The branch should pay close attention to its compensation practices with respect to highly competitive positions such as those in the information services area.
20. The Legislative Council, with the concurrence of the Legislative Audit Committee and the Legislative Finance Committee, should examine compensation and classification policies and practices for legislative session staff. Unexplained differences in policies and practices lead to misunderstandings between permanent, year-round staff and temporary employees which could ultimately erode morale. A uniform and consistent policy for classifying temporary employees throughout the legislative branch should be established.

Council Discusses Other Issues...In other business, the Council heard and discussed land exchange issues regarding a land sale to be conducted on behalf of the School for the Deaf and Blind, transfer of an easement associated with the Bell Street Bridge in Dawson County, and transfer of excess land back to the City of Lewistown that was originally conveyed to the state by the city for development of the Center for the Aged but that is currently unused.

The Council reviewed the Capitol Renovation issues reported in last month's **INTERIM**.

The Council appointed Justice James Nelson as a delegate to the National Conference of Commissioners on Uniform State Laws.

The Council reviewed budget structure changes that further implement the reorganized legislative branch and approved operating budgets for fiscal year 1997.

The Council also heard reports on ongoing work of several subcommittees but took no action regarding those.

To Meet Again in September...The next meeting of the Council is set for September 12 and 13 at the Capitol.

## COMMITTEE ON STATE MANAGEMENT SYSTEMS

Committee Meets in June...The SJR 23 Committee on State Management Systems met on Monday, June 10 at the Capitol. Committee members continued their inquiries into business process reengineering through a presentation by representatives of SAIC, Inc. of San Diego, specifically Mr. Dan Klute of San Diego and Mr. Art Wittich of Bozeman. The discussion ranged from the topic of hardware/software integration to upgradeable platforms and programming to system architecture to creative financing for asset management system implementation and maintenance. The Committee also received the (nearly) final report of the Budgeting Task Force, including several tentative recommendations.

To Meet in August...The full SJR 23 Committee scheduled its next meeting for Friday, August 23, at the Capitol in Helena. For more information, please contact Dave Bohyer at the Legislative Services Division, 444-3064.

## JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

Commission to Hold Sixth Meeting...The Juvenile Justice and Mental Health Study Commission will hold its sixth meeting in Missoula on July 10-12. The meeting will include a public hearing to be held Wednesday night, July 10, at 7 p.m. at the Missoula Public Library, 301 E. Main. The Thursday and Friday meetings will be held at the Holiday Inn Parkside, 200 S. Pattee. There will be provider testimony on Thursday morning, July 11, and in the afternoon, subcommittees will present their findings and preliminary recommendations to the full Commission. The Commission will deliberate on the recommendations in order to prepare final recommendations. The meeting will conclude at noon on Friday, July 12. A meeting on the final recommendations will be held in Helena in September.



## SUBCOMMITTEE ON VETERANS' NEEDS

Subcommittee to Meet in August...The next meeting of the Subcommittee on Veterans' Needs will be held on August 6 in Helena. There will be a public hearing on the proposals currently before the Subcommittee. The proposals include: an eastern Montana State Veteran's Cemetery, a National Guard scholarship program and tuition waiver, changes to the Veteran's Preference law, and a subsidy proposal for the Eastern Montana Veteran's Home. Following the public hearing, the Subcommittee will take action on the proposals.

For more information about the meeting contact Susan Fox at the Legislative Services Division, 444-3064

## LEGISLATIVE BRANCH

Staff Now Available Through E-Mail...The staff members of the Legislative Audit Division (LAD), the Legislative Fiscal Division (LFD), and the Legislative Services Division (LSD) can now be reached through e-mail. To contact an individual staff member in any of the three divisions, simply use the following address formula:

first initial last name@mt.gov

Examples: ssecat@mt.gov  
cschenck@mt.gov  
bperson@mt.gov

If you are unsure of a particular staff member's e-mail address, please call the LAD, LFD, or LSD for the correct information.

## COMMITTEE ON INDIAN AFFAIRS

Committee Visits Fort Peck Reservation...The Committee on Indian Affairs traveled to the Fort Peck Reservation on Thursday and Friday, June 6 and 7. The Committee toured the Reservation on Thursday and held a public hearing on Senate Joint Resolution No. 11 on Thursday

evening. On Friday, the Committee met with tribal officials at the Fort Peck Community College.

Committee Tours Reservation...On Thursday morning at 9 a.m., the Committee boarded a tribal bus to begin the Reservation tour. The first stop was the tribal ranch, a 2600 acre operation located near Oswego, MT. The next stop on the tour was the Silverwolf Casino in Wolf Point where the Tribes operate bingo games and gambling machines.

Following lunch, the Committee visited Looking Eagle Manufacturing, a new manufacturing enterprise on the Reservation. Looking Eagle does silk screening and makes canvas tepees and nylon goods such as tote bags, backpacks, laptop computer bags, etc. Looking Eagle is currently housed in the same building as the casino. Negotiations are currently underway to purchase a second building so that Looking Eagle will have more room.

The Committee then traveled to Poplar to tour A&S Industries, a manufacturing firm that produces a number of different items for use by the Department of Defense. A&S Industries at one time was the largest manufacturing firm in Montana. In recent years, A&S has suffered some extremely severe cutbacks but is now on the road to recovery.

The last stop on the tour was the Spotted Bull Treatment Center, a facility providing both in-patient and out-patient treatment for youth suffering from drug and alcohol addiction. The facility also provides outpatient treatment for adults with drug and alcohol problems.

At the Spotted Bull Center, the Committee was briefed on a new economic development project being pursued by the Tribes: an aquaculture facility/hydroponics greenhouse. Planning for the project is completed, and the Tribes are now seeking to put together a financing package.

Committee Holds Public Hearing...On Thursday evening, the Committee conducted a public hearing on SJR 11 in Wolf Point. The hearing was arranged by the Fort Peck Tribal Education Department. School districts located on or near the Reservation presented testimony on the number of Indian students and faculty members in their districts, Indian studies and language classes offered in their schools, and other programs or activities designed to enhance the educational experience of Indian students. Representatives from Fort Peck Community College discussed the programs and resources available at the College to public school teachers and administrators seeking instruction in Indian studies. Other witnesses included individual parents and teachers and tribal officials. All stressed the need for more Indian teachers and more Indian history and culture classes in the public schools. Many parents felt that non-Indian teachers were not sensitive to the needs of Indian students and discriminated against them in the classrooms and in extracurricular activities. The Committee will incorporate all of the testimony into the final report on SJR 11.

Committee Meets With Tribal Officials...On Friday morning, the Committee met with members of the Fort Peck Tribal Executive Board and other tribal officials to discuss issues of mutual concern to the state and to the Tribes. During the discussions, tribal officials asked the Committee's assistance on a number of issues.

Carlene Red Dog of the Montana State Women's Resource Council discussed the Council's fetal alcohol syndrome (FAS) education project. Fetal alcohol syndrome is not just a problem on Indian reservations; it affects non-Indians as well. The Council hopes to initiate some education and prevention programs to reduce the instances of FAS.

The tribal Office of Environmental Protection reported on a suit filed by the Salish and Kootenai Tribes challenging the state's attempt to enforce water quality standards on non-Indian land within reservations. The Tribes believe that this is a usurpation of their jurisdiction and will be impossible to enforce because water flows from Indian land onto non-Indian land without regard for boundaries. The Fort Peck Tribes are also involved in building a water pipeline with the state that will provide water to both on and off reservation communities. Funding is being sought from the Treasure State Endowment Program. The Fort Peck Tribes are in negotiation with the Bechtel Corporation to develop a wind farm near Plentywood.

The Fort Peck Tribal Court Administrator asked the Committee's assistance in determining the status of a number of child support enforcement petitions against tribal members that are supposed to be heard in tribal court. The tribal court is concerned that the petitions have not been filed and are worried that perhaps they are being heard in administrative hearings off the reservation. The Committee agreed to look into the issue. The tribal court also asked what the state's position was on the Pryce Amendment to the Indian Child Welfare Act. Committee members were unfamiliar with the amendment and asked staff to provide them with the information.

A major issue of discussion during the meeting was criminal jurisdiction on the Fort Peck Reservation. The Tribes, as well as non-Indians, are concerned that some lesser felonies, such as burglary, where the perpetrator is a non-Indian and the victim is an Indian are not being prosecuted by the federal government. The Tribes would like to see a Special Assistant U.S. Attorney assigned exclusively to the Montana reservations to handle these felonies. The Committee agreed to write a letter to U.S. Attorney Sherry Matteucci. Chairman Caleb Shields asked the Committee to investigate some legislation in Utah regarding the transfer of jurisdiction from state to tribal court for Indians who commit misdemeanors off the reservation. Committee staff has since learned that it was a court case, not legislation, and may not be applicable in Montana.

The Tribes are currently in negotiation with the MT Department of Revenue over an agreement to share oil and gas severance taxes. The agreement is similar to one recently concluded with the Blackfoot Tribe.

The Tribes asked the Committee's assistance in helping to conclude the negotiations. The Committee will ask for a report on the negotiations from the Department.

The Tribes expressed concern over the new welfare program, Families Achieving Independence in Montana (FAIM). Valley County, which includes portions of the Fort Peck Reservation, is a test county. However, there are few if any jobs on the Fort Peck Reservation. Tribal officials fear that when the two-year restriction goes into effect, people will move into Roosevelt County, straining that county's resources. Committee members commented that this is a problem in many other Montana counties, not necessarily just reservation counties.

Committee to Hold Two More Meetings...The Committee asked staff to try and arrange the next meeting on the Salish and Kootenai Reservation sometime in August. The Committee will then hold its final meeting in Helena in September.

For further information about the meeting at Fort Peck or about any upcoming meetings, please contact Connie Erickson at the Legislative Services Division, 444-3064.

## GAMING ADVISORY COUNCIL

Will Meet in August...The Gaming Advisory Council will meet on August 27 and 28 in Room 325 of the Capitol. At that meeting, the Council will discuss recommendations from the Attorney General and legislative proposals for the 1997 legislative session.

For further information about the meeting, contact Wilbur Rehmann, Gambling Control Division, 444-1971.

## SUBCOMMITTEE ON THE FOREIGN INVESTMENT DEPOSITORY

Subcommittee to Hold Final Meeting...The Subcommittee on the Foreign Investment Depository plans to meet in the afternoon and evening of Wednesday, September 11 in Room 437 at the State Capitol in Helena. The purpose of this final scheduled meeting during the interim is to thoroughly review the provisions of a draft enabling bill and then submit the proposed legislation to public scrutiny. Officials from several



state and federal agencies as well as the banking and investment community will be invited once again to comment on the purpose, scope, and provisions of the proposed act to permit the establishment of one or more state-chartered financial institutions that would provide limited and specialized services to foreign depositors.

The draft bill is currently a work in progress. The Subcommittee anticipates that copies of the package will be available to interested persons in early August. Additional notice of the September meeting will appear in subsequent issues of this publication as well as in the public media.

For further information, please contact Stephen Maly at the Legislative Services Division, 444-3064.

## COMMITTEE ON CHILDREN AND FAMILIES

Committee Holds Fifth Meeting...The Joint Oversight Committee on Children and Families met for its fifth meeting of the interim on Friday, June 21. The Committee's key agenda items included the following:

- testimony from Karen Sedlock on the citizen review board pilot projects being administered through the Supreme Court Administrator's Office;
- an overview of a regional planning conference on unintended pregnancy and a report from Montana's state family planning office on state initiatives to prevent unintended and teenage pregnancy;
- an update on the FAIM initiative and a review of how program eligibility is determined;
- a review of juvenile corrections issues including a presentation by Department of Corrections Director Rick Day on the Montana Youth Alternatives Program;
- a presentation from Managing Resources Montana representatives from Missoula (Region V) on Region V's concerns about MRM being subsumed under the Mental Health Managed Care plan;
- a presentation on the Helena School District's before- and after-school programs; and
- Committee discussion of legislative options related to child care issues.



Foster Care Citizen Review Board Project...Ms. Karen Sedlock presented information about Montana's new foster care citizen review board program administered through the Office of Supreme Court Administrator. Ms. Sedlock explained that the program was begun by Senator Jacobson's 1993 bill, which initiated pilot projects for replacing the Department of Family Services foster placement review boards with citizen boards. The citizen boards, whose members are trained community volunteers, review foster care arrangements at least once every six months and make recommendations directly to district judges. Montana now has 7 citizen review boards--3 in Missoula, 3 in Butte, and 1 in Bozeman--with a total of 35 members, two staff, and a part-time secretary. The boards also have access to a staff attorney. The citizen review board program is funded through the Judiciary budget from the state general fund. The program's budget is about \$250,000 in each year of the biennium.

The citizen review boards review each child's case history, conduct a thorough hearing on each case, and have temporary investigative authority. Following a hearing, the board issues findings and recommendations. The Department of Public Health and Human Services (DPHHS) must implement the board recommendations within 17 days or provide specific reasons for not implementing the recommendations. The District Court then decides on the final disposition of the case. Ms. Sedlock said the citizen review boards provide for a more neutral setting for foster care hearings, involve communities and parents, bring the proceeding under the auspices of the judiciary rather than an "bureaucratic" state agency, and provide judges with a means of determining what placements are in the best interest of the child.

Ms. Sedlock reported that response to the program is very positive and that it is saving the state money on inappropriate and expensive placements of children in the foster care system. She indicated that the judiciary will be requesting additional funding to expand the program statewide.

Regional Conference on Unintended Pregnancy...The Committee heard a report on a one-day regional planning conference on the prevention of unintended pregnancy. The conference was sponsored by the U.S. Department of Health and Human Services' family planning office. Montana's working group reported that it is recommending that the Governor call a statewide conference for people from every community and all perspectives to join in a statewide planning conference for community initiatives to prevent unintended pregnancy. The Committee was asked if it would request such a conference.

The Committee also heard a report from Ms. Suzanne Nybo, supervisor of the state's family planning office, on her office's social marketing campaign to prevent teenage pregnancies. Ms. Nybo said that unintended pregnancies are linked to a lack of prenatal care, more

frequent exposure of unborn children to alcohol and drugs, low-weight births, infant death, abuse and neglect, and domestic violence against the mother. Ms. Nybo reported that through the executive's budget planning process (EPP), \$249,000 in new money is being requested for unintended pregnancy prevention programs. Such programs would include expansion of a social marketing campaign targeting teenagers and a request for proposals (RFP) from communities to initiate a community-based teenage pregnancy prevention program. The RFP would be designed around the Interagency Coordinating Council's benchmarks and the U.S. Department of Health and Human Services' Goals 2000. This EPP request is still in process and has not yet been assigned a DPHHS priority.

Families Achieving Independence in Montana (FAIM)...Mr. Ed Scheible, program manager in the Public Assistance Bureau, Division of Child and Family Services, DPHHS, presented information on the FAIM Job Supplement Program (JSP). Mr. Scheible explained that there are three programs in FAIM, the JSP, Pathways, and the Community Service Program (CSP). The JSP track provides participants with non-cash AFDC benefits, such as Medicaid and food stamps, but does not provide a cash grant. Participants in JSP are usually employed, or have another source of income, but, because of low income, are eligible for the non-cash benefits. However, under Pathways and CSP, participants are eligible for a cash benefit. In exchange for the cash grant, the participants sign a Family Investment Agreement that is a contractual agreement that the participant will engage in certain activities designed to lead to employment. Pathways is a time-limited program (18 months for couples and 24 months for single participants), while a qualified participant in CSP may remain in CSP indefinitely.

Mr. Scheible showed how calculations are made to determine eligibility and why many former AFDC recipients qualify for the JSP and will be "diverted" to the JSP from Pathways or the CSP. Mr. Scheible's calculations also showed that the cash grant under the CSP is significantly reduced from the grant provided under Pathways, again an incentive for participants to move into the JSP track (employment) as soon as possible. A JSP participant may remain in JSP indefinitely as long as the participant is income eligible.

Managing Resources Montana and Mental Health Managed Care...The Committee heard presentations from MRM representatives from Missoula about Region V's concerns that the gains MRM has made in adolescent mental health treatment will be eroded under the Managed Care plan. Ms. Susan Duffy from Missoula indicated she would like to see more protections for MRM under the Managed Care plan and explained her perspective that the Managed Care "train" was heading toward a different destination that originally intended. Ms. Cindy Bartling, Chairperson of the Region V MRM team, told the Committee that the state had entered into a contract with the MRM providers to share the costs for children

requiring residential treatment and that the community was assured it would reap the benefits of the savings being realized by keeping children in community-based treatment programs and diverting them from residential treatment. Ms. Bartling suggested that the DPHHS was not honoring the spirit of the original arrangement with MRM. Mr. Jim Parker, an MRM specialist in Region V, provided the Committee with spreadsheet data showing that a total of about \$2 million had been saved since MRM was initiated in 1993, which showed how successful MRM had been. Mr. Parker suggested that the inclusion of MRM under the Managed Care plan was not a reward for the job well-done and would hurt the children MRM was serving.

During questions and answers, Mr. Dan Anderson, Director, Division of Addictive and Mental Disorders, DPHHS, said that nearly all children previously served under MRM will be included in the eligibility criteria provided for under the Managed Care plan. He said the DPHHS agrees in concept with the perspectives shared by the Region V MRM representatives but disputed the perception that a lot of children will suddenly not be served under the Managed Care plan. Mr. Anderson also indicated that the entire savings realized from MRM was never intended to be returned to the communities because of the need to continue residential treatment for the severely mentally or emotionally disturbed children. He said the intent was to provide flexibility to move the dollars to the areas of greatest need.

Department of Corrections and the Montana Youth Alternatives Program... Mr. Rick Day, Director, Department of Corrections, presented information requested by the Committee about the Montana Youth Alternatives Program (MYA). Responding to Committee concerns about the fact that a for-profit organization, ASPEN, was not sharing the risks for its cost overruns, Mr. Day explained that ASPEN, the contractor for three phases of the program, is not over budget, ASPEN receives a set amount of money as provided for in the contract with state. Mr. Day said that the state-run orientation phase of the MYA program was over budget for reasons that were currently being explored. He explained that the original cost estimates presented to the Legislature had not adequately projected costs and had assumed a 15% under-utilization of the program, and so estimated costs had been reduced by 15%. Mr. Day explained that juvenile corrections was not yet within his jurisdiction, and that he was not involved in the original cost-estimating process. Mr. Day pointed out that of the Department of Corrections' \$3 million supplemental budget request, only about \$250,000 was being requested for the MYA program.

Responding to concerns about the closure of Mountain View (a secure facility for girls) and the fact that the Department of Corrections was looking for more beds for the secure care of girls, Mr. Day explained that the Mountain View campus was a large campus with high operating costs that was not serving many girls, about 5 to 10 girls each month. The group of girls being served was too small to justify the operation of

Mountain View, so it made sense to close the school. But, then the need for a secure care facility for girls increased to about 25 girls, which was a large enough number to be served in-state. Mr. Day said that there was a draft plan to remodel facilities in Boulder to provide for the secure care of these girls. Other options were also being considered. A total of about \$690,000 was the estimated cost of providing for a secure care facility for girls.

Before- and After-School Child Care Programs in Helena Public School District...Ms. Shirley DeVoe presented information about Helena Public School District's before- and after-school program for school-aged children through fifth grade. The program is self-sufficient, being funded by parental fees, which does not address the needs of low-income families. The program provides a variety of activities for children so that they do not have to be left unsupervised at home after school or before school when their parents are working. The program also provides nutritious snacks and is open in most sites and most days from 7:00 a.m. to 6:00 p.m. except holidays and weekends. The program was started through a \$7,500 block grant and now receives no public funds.

Committee Conducts Work Session...During its work session, the Committee considered several options related to the following child care issues:

- providing tax incentives to employers to assist employees with child care expenses;
- providing individual tax credits or deductions to families paying for child care; and
- enhancing the training requirements for child care providers.

The Committee asked for additional information and options related to the following:

- encouraging more people to become child care providers by providing assistance to child care providers to get started and to stay in business; and
- employer cooperatives and a child care network model of providing for child care needs.

The Committee took the following actions:

- voted unanimously to request a bill draft to move jurisdiction for the enforcement of child care laws from district court to the justice and

municipal courts (a Governor's Child Care Advisory Council recommendation);

- voted unanimously to have a committee bill to add the Director of the Department of Corrections to the Interagency Coordinating Council for State Prevention (ICC); and
- voted unanimously to send a letter to the ICC requesting a copy of the unified prevention budget, which the last interim's Committee on Children and Families had directed the ICC to develop.

Committee May Meet in July...The Committee's next meeting was tentatively set for Wednesday, July 24, provided that all members could attend on that date. Agenda items will include an update on FAIM, discussion of program evaluation, the presentation of substance abuse and teenage pregnancy prevention outcome data, an overview of the MIAMI and Follow Me programs, an update on ICC activities, a presentation on the automated computer systems involved in providing state agencies with evaluation data and tracking information, and further committee work on developing its final recommendations, including LC 36 on child custody and visitation issues.

For further information, contact Sheri Heffelfinger at the Legislative Services Division, 444-3064.

## COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS

Committee Considers Retirement Proposals...The Committee on Public Employee Retirement Systems conducted a public hearing on June 10 to hear presentations of retirement proposals for possible introduction in the 1997 Legislature. The following is list of each proposal by number, the requestor, the retirement systems affected, and a summary description:

### Key of Acronyms:

CPERS = Committee on Public Employee Retirement Systems  
FURS = Firefighters' Unified Retirement Systems  
GABA = Guaranteed Annual Benefit Adjustment  
GWRS = Game Warden's Retirement System  
HPORS = Highway Patrol Officers' Retirement System  
JRS = Judges' Retirement System



MPORS = Municipal Police Officers' Retirement Systems  
 ORP = University System's Optional Retirement Plan  
 PEPSCO = Public Employees' Pension Security Coalition  
 PERB = Public Employees' Retirement Board  
 PERS = Public Employees' Retirement System  
 SRS = Sheriff's Retirement Systems  
 TRB = Teachers' Retirement Board  
 TRS = Teachers' Retirement System

<u>No.</u>	<u>Requestor</u>	<u>Systems Affected</u>
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1.	PERB	All except TRS & ORP
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1.5% GABA (1.5% annual increase as floor in combination with existing postretirement adjustments).

2.	PERB	Judges' (JRS)
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To provide actuarial funding of the JRS, increasing state contributions, depositing court fees to the general fund.

3.	PERB	Police (MPORS) Firefighters (FURS)
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To provide actuarial funding for minimum benefit adjustments in MPORS and FURS, eliminating direct reimbursement of supplemental benefit payments, increasing state contributions.

4.	PERB	PERS, GWRS, SRS, HPORS & TRS
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General housekeeping bill (see proposal summary).

## 5. PERB GWRS &amp; PERS

Expanding the Game Wardens' Retirement System into a "State Law Enforcement Retirement System" for state employees with law enforcement/safety responsibilities.

## 6. TRB TRS

To provide for a "Restoration of Purchasing Power" (ROPP) postretirement benefit adjustment for TRS retirees (instead of a GABA).

## 7. TRB TRS

General housekeeping bill (see proposal summary).

## 8. U-System ORP/PERS

Allow university employees under PERS to join the U-System's Optional Retirement Plan (ORP).

## 9. PEPSCO All (except ORP)

A one-time permanent 2.5% increase in all benefits paid as a "make whole" provision to address the state taxation of state retirement benefits.

## 10. Retired Police Officer's Assoc. MPORS

Amending the minimum benefit in MPORS to provide that any officer who retired at the rank of Sgt. or above would receive no less than  $\frac{1}{2}$  of a current Sgt.'s pay.

11. Retired Firemens' FURS  
Assoc.

A one-time permanent ad hoc benefit increase for FURS' retirees calculated as if the 1.5% GABA had been in effect when each member retired.

12. Rep. Galvin for HPORS  
Cpt. Seyfert

To address retention problem in Hwy. Patrol. (The Hwy. Patrol Officers' Assoc. has no proposal for current or retired members at this time. This proposal was made without full knowledge of what the Assoc. has been working on. The Assoc. supports the 1.5% GABA.)

13. Firemen's Assoc. FURS

To increase retirement benefit from 2% per year of service to 2.5% per year of service; amend formula to be based on Final Average Salary instead of Final Monthly Compensation.

14. Sheriffs' and SRS  
Peace Officers

To increase the benefit formula from 2.0834% per year of service to 2.5% per year of service for all years.

15. Sheriffs' and SRS  
Peace Officers

To amend reinstatement provisions for a member who has been removed from medical retirement status.

16. Police Protective Assoc. MPORS

To provide for a 5-year vesting in the MPORS instead of a 10-year vesting.

17. MEA TRS

To provide that at least one member of the Teachers' Retirement Board be actively employed as a teacher.

18. McCullough PERS

To provide that laid off state employees are allowed the option of benefits from the Employee Protection Act or the 3 years of retirement credit purchased by employer as were provided under 1995 legislation; and to provide a delay (until FY99) in the GABA's provision increasing the cost of purchasing 1 year of service for each 5 years of active membership service.

19. McCullough PERS Division

To require that prior to the legislative session, the Public Employees' Retirement Division must distribute to each PERS member information about the Board's proposed legislation.

20. Rep. Kasten All

To allow an employer contribution to an employee's deferred compensation plan (instead of a GABA).

21. CPERS (?) All

To consider "conversion" from defined benefit plans to defined contribution plans or to provide for some hybrid of the two that will address issues of portability, individual responsibility, and the unfunded liabilities of the defined benefit plans.

22. CPERS N/A

To remove CPERS sunset.

23. CPERS N/A

To amend CPERS membership to provide for seniority criteria in view of term limitations and member turnover.

Staff will analyze each proposal and provide a report on each one at the Committee's next meeting, which is tentatively scheduled for 8 a.m., August 15 in Room 104 of the State Capitol. During this meeting, the Committee will take preliminary action on each proposal and adopt its recommendations to the 1997 Legislature. For more information, contact Sheri Heffelfinger at Legislative Services Division, 444-3064.



## THE BACK PAGE

One of the more intriguing resolutions passed by the 1995 Montana Legislature was Senate Joint Resolution No. 19, requesting an interim study of the feasibility of establishing a state-chartered or state-owned financial institution to accept and invest foreign deposits. Could a Swiss-style banking operation actually be set up in Montana? Would foreign investors seeking a safe haven for their money from the political instabilities of their own countries actually deposit their money in Montana?

This month's "The Back Page" discusses one of the reasons that such an institution might just work in Montana.

### THE PLATINUM ANGLE: A FISH STORY?

by Stephen Maly, Research Analyst  
Legislative Services Division

When Senate Joint Resolution Number 19 to study the feasibility of a state-chartered foreign capital depository was passed in the waning hours of the 1995 session, the Montana Legislature decided, in effect, to go fishing for lots and lots of other people's money. The question was, and still is, how to craft a respectable spinner out of bits and pieces of privacy, protection, and profit potential that would land some of the juicy private portfolios floating around in the jetstream of liquid capital that circulates the globe 24 hours a day. For a brief while, some individuals (who must now plead the fifth) characterized this endeavor as "jigging for dollars". After further consideration, the notion that Montana could simply cast out a line and snag significant amounts of legitimate wealth just didn't wash. For one thing, law enforcement and regulatory officials representing, respectively, the U.S. Treasury Department and the Federal Reserve Bank's Board of Governors, warned the Subcommittee staff that the bait of financial privacy would, by itself, attract the worst kind of "bottom feeders." They actually used these terms. What the Feds were referring to are financial criminals eager to launder "dirty money" gained through illicit trade in drugs, guns, and other objects of desire. We took the hint, and continue to consult with both the Federal Reserve and the Treasury Department's Financial Crimes Enforcement Network as we connect the threads and wires and catch-lines of the draft enabling legislation for the depository. Platinum looks to be an element that could add the right amount of flash to a lure that will hook some trophies and deter the carp.

During the course of six meetings leading to the Subcommittee's March 28 decision to request a bill, the most often repeated question at the beginning and end of the day was "Why Montana?" What's so special about Big Sky country that's going to attract the big fish who already play in offshore banking and investment markets like Bermuda, the Cayman Islands, and the Isle of Man? There were (and still are) a number of answers to this question, all undeniably true yet still somewhat lacking in compelling financial logic. Montana is located in the center of North America, far from the madding crowds and a long way from almost everywhere. We are a politically stable jurisdiction; so far as we know, nobody is plotting a palace coup or planning to nationalize the banks, mines, and railroads. Montana is beautiful, a fun place to visit and, if you know how to layer your winter wraps properly, a great state in which to enjoy early retirement. When all is said and done, Montana is more secure than the Rock of Gibraltar, and there will never be any ice fishing opportunities in the Caribbean!

Actually, serious people who work and travel in private international banking circles continue to put the Montana depository in a positive light. What appear to be drawbacks in conventional terms may translate into genuinely attractive benefits. Relative isolation can be splendid, especially if you're a wealthy citizen of a country that has an oppressive tax regime, and you've got a host of distant relatives who perceive your savings as their inheritance. Moreover, there is something altogether unique about Montana when compared with any offshore jurisdiction, or any other state of the Union, for that matter: Montana produces platinum, the world's rarest precious metal.

Even though all the platinum mined to date in the world would fit into one large shipping container, more than 20 percent of all manufactured goods contain platinum or require its use in the production process. Demand is rising, supplies are limited. While platinum use has risen by 50 percent in Europe, Japan, and North America in the past decade, its use has risen by over 300 percent in the rest of the world, most notably in China and other emerging markets in Asia. Over 95 percent of the world's platinum is mined in South Africa and Russia both of which are susceptible to disruption caused by strikes, transportation bottlenecks, capital shortages, and technical breakdowns associated with antiquated machinery and infrastructure. It takes ten tons of ore to produce a single ounce of the metal, a complex process that requires capital, expensive machinery, and a highly skilled work force. Bringing a new mine into operation takes from five to ten years. In short, there is little doubt that platinum will continue to increase in value. What is not certain is whether the proposed depository will provide a commercially viable link between the deep pockets of foreign investors and the highly refined product of a big hole in the ground in south-central Montana.

The Stillwater Complex in the Beartooth Plateau contains a considerable number of "platiniferous orebodies" imbedded in some of the oldest rock on the planet. The Complex includes an extensive mineralized zone known as the J-M Reef, which has been traced on the surface for approximately 28 miles and which extends over one mile to unknown depths. The Stillwater Mining Company currently owns or has the rights to nearly 1000 claims covering substantially all of the presently identified ore-bearing zone. The preface to the company's 1995 annual report explains the economic significance of this geologic happenstance:

*Platinum and palladium are rare precious metals with unique physical and chemical properties which make them vital to modern society. Stillwater Mining Company is the only U.S. producer of these strategic metals and the only significant primary source of platinum group metals (PGMs) outside South Africa. Stillwater's vast ore body in southern Montana is the richest known depository of PGMs in the world, and contains sufficient reserves to make Stillwater one of the largest precious metals companies in North America on a reserve basis.*

The Stillwater mine sold 55,000 oz. of platinum in 1995. Milling and concentrating facilities at Nye are undergoing expansion. A base metals smelter is being constructed at Columbus. Annual platinum production is expected to exceed 125,000 oz. beginning in 1998. A second mine is planned at East Boulder, which could double or even quadruple production in the future.

### **As Good as Gold, Only Better**

Platinum is similar to gold in that it is widely regarded as a store of value. The available supply of platinum is far less than gold. However, there is at least 20 times more gold than platinum mined each year, and there is far more gold than platinum in the commercial and strategic stockpiles of the world. Platinum generally trades at a substantial premium to gold. For example, in 1993, platinum prices exceeded gold prices by \$40 per oz. In the 1980s, the spread exceeded \$100 per oz. When gold reached \$859 in 1980, platinum broke through the \$1,000 mark. Platinum has increased in price by over 150 percent in the past decade. (The current price of platinum is just under \$400 per oz., which is about \$20 per ounce more than gold.)

Platinum has remarkable physical characteristics: a high melting point (3,125 degrees F.), great tensile strength, high resistance to corrosion and oxidation, excellent conductivity, and unmatched catalytic properties (that is, the ability to alter and/or accelerate beneficial chemical reactions.) Nearly half of all the platinum produced today is used in catalytic

converters for automobiles. The metal is irreplaceable in some petrochemical processes as well as in assorted defense and high technology applications, including space shuttle components. It is also used in catheters, pacemakers, mass spectrometers, dental equipment, surgical instruments, and certain anti-cancer drugs.

Platinum is also what's known as a prestige jewelry metal, and jewelry accounts for nearly 40 percent of commercial demand. Platinum jewelry is especially popular in Japan, which accounts for 85 percent of the market. Platinum is a hypo-allergenic metal compatible with skin types. It does not tarnish or discolor and is used widely as a setting for precious stones. In addition, platinum jewelry is usually 90 to 95 percent pure, while much of gold jewelry contains only 50 percent.

Platinum group metals comprise an increasingly important element in efforts to restore and conserve clean air and water. Besides their use in the fabrication of automotive catalysts in the U.S., Japan, and Europe, platinum-based fuel cells may power cars when zero emission standards come on line. Platinum is a key ingredient in pollution prevention technologies in dry cleaning, power plants, oil refineries, and assorted factory operations. There is also a growing market for recycled platinum recovered from abandoned cars and machinery. Palladium is a vital constituent of hydrogen peroxide, which is now being used in lieu of chlorine in a number of industrial processes.

There are no known substitutes for platinum and palladium, although the Stillwater Mining Company includes in its reports a caveat about the possibility that a less expensive alloy or synthetic material that could serve the same purposes might be developed in the future.

### **The Enduring Appetite for Metal**

"Investment in precious metals has always been a reflection of what people expected--feared!--would take place in national and world events." This is the opening line in a 1996 booklet (Profits in Gold, Silver and Platinum) authored by Jacques Luben, president of the Platinum Guild International. Precious metals are a remarkably respected and effective hedge against disaster. As Charles de Gaulle observed in mid-century, gold is still the universally accepted medium of exchange for governments and individuals alike, and as a marketing pamphlet for a precious metals investment program offered by California-based Monex Deposit Company puts it, "Many experts believe that the financial markets and the mutual funds that invest in them are overvalued. [Precious metals] offer an excellent alternative and should benefit if there is a flight to tangible assets." According to Luben and others, bullion offer other advantages: commissions on purchase and sale are minimal; re-sale is relatively easy

(provided the bars bear the stamp of a trustworthy refiner); market prices are quoted uniformly across the world; purchases can be made at many different outlets, including banks, brokerage firms, and metals exchange companies. Paraphrasing de Gaulle, Luben writes that "Whether a country has or lacks sufficient gold reserves (or their equivalent), may decide the fate of nations in war and peace." The focus here and now is on the parenthetical "equivalent", which for our purposes means platinum.

Notwithstanding all the above, history records a perennial return to--rather than from--precious metals. Gold, silver, and platinum are not generally regarded as good investments. Prices are, on occasion, volatile. Platinum and gold pay no interest or dividends. Their value has failed to keep pace with stocks, money market accounts, and mutual funds. There is always a risk that governments will succeed in their pursuit of balanced budgets, balanced trade, low inflation, and other aspects of a sound money policy, all of which tend to diminish the allure of precious metals.

From a purely financial point of view, these are all disadvantages. But from the vantage point of someone who is wealthy, skeptical about the resiliency of currency markets, fearful of a worldwide financial crash and all the misery that would entail, and who is perhaps a devout, orthodox Muslim (for whom earning interest is a sin), a sizeable investment in precious metals is a genuinely attractive proposition. The possibility that the metal might be stored in a secure vault in the heart of North America--far from pirates and plunderers of all sorts, including tax collectors--presumably adds lustre to the prospect.

### **A Scenario, Likely or Not?**

The platinum angle hinges on a mixture of primitive and sophisticated factors: the psychological desire for "real" money and the use of cutting edge telecommunications and security technologies. Picture this: A Taiwanese business executive guided by entrepreneurial instincts and mounting evidence that the People's Republic of China intends to squelch the island's independence movement as well as sit down hard on the golden goose/egg complex known as Hong Kong decides to hedge a little and buy into whatever the Wild West non-bank depository of Montana has to offer. The customer deposits a million dollars at the branch office in Taipei. The deposit is transmuted into a purchase order and wire transferred to the home office in Montana, where it automatically summons up the appropriate number of made-in-Montana platinum bars, which are promptly shipped to the privately insured depository vault. The overseas customer receives a warehouse receipt or delivery order confirming ownership of the metal, and, under special arrangements with the depository, also receives a smart card with a daily ATM limit that is



less than \$10,000 and an annual withdrawal limit that does not exceed 20 percent of the market value of the metal on the date of initial purchase.

These details beg numerous questions, but in this sequence of events, the customer has: 1) retained financial privacy (the cash transaction takes place offshore, and other features of state law shield the platinum assets from scrutiny); 2) traded conceivably imperiled currency for a valuable physical asset; 3) acquired a new nest egg for heirs (or for retirement in exile); and 4) obtained and established a solid hedge against the potentially disastrous consequences of a Communist Chinese takeover. The state of Montana gets a proportionally small yet financially significant cut, in that a semi-annual tax assessment based on the total value of assets in the depository generates general fund revenue that might in turn engender tax reduction. Montanans' interest in deterring money launderers and other crooks from abusing the state's "open for business" mentality is protected by rigorous statutory and regulatory controls that restrict the liquidity of the customer's assets. Early withdrawal (say, before 5 years have expired) from the platinum account entails a hefty financial penalty and an automatic partial loss of financial privacy via a suspicious transaction report submitted to both state and federal government law enforcement authorities.

There may be something fundamentally wrong with this picture, either from a technical, legal, or commercial point of view. If so, the public and the Subcommittee alike will learn what doesn't work (and why) on or before September 11, the date of a scheduled hearing on the draft bill at the State Capitol in Helena.

### Oro y Plata y Platinum

Barring some huge calamity, precious metals prices are probably going to stay within a narrow price range. The ownership of platinum or gold is less an investment than a speculation, and in many ways it is the type of speculation that most people would prefer to be wrong about. Who in their right mind (really bad fish and doomsday prophets aside) would wish for a global financial meltdown resulting in worldwide depression, massive unemployment, tidal waves of bankruptcy, and valueless currency?

This train of thought can easily lead a person into flights of nightmarish fantasy that double as plausible twists of fate, resulting in extraordinary benefits to depositor and host community alike. Consider, for example, the financial consequences of an economic catastrophe comparable to the Great Depression of the 1930s. The chaos that will likely ensue if banks go bust and the government is unable to restore confidence in the financial system would eventually compel governing authorities to

reconstruct a viable method of payments and settlement. Irrational as it may seem at the turn of the 21st century, a jury-rigged return to some sort of metal-backed currency is quite possible, perhaps even highly probable. (If you're in the doomsday business, a gold standard is inevitable.) Given this scenario, a Montana depository chock full of platinum and gold bullion could constitute the foundation of financial renewal in an important region of the national and global economy.

The prospective coalescence of high drama, advanced technology, environmental values, value-added fabrication, and a traditional economic activity like hardrock mining, resulting in Montana becoming a center pivot of international finance...it all begins to sound like a two-ton trout. This is not what the members of the Subcommittee on the Foreign Investment Depository had in mind as they considered the feasibility of establishing a state-chartered financial institution that would accept exclusively foreign deposits. Revenue enhancement and economic development were very much the focus of interest, and remain so.

Still, it is not difficult to make a strong theoretical case for the purchase of precious metals. All that's really needed is a sufficient degree of anxiety about the course of world events and a sure-fire method of assuring investors that their hoard is safe from theft and seizure. Given the location of the Stillwater Mine, the dearth of secure storage facilities equipped to handle metals (there are only two, in Zurich, Switzerland and Wilmington, Delaware), the possibility that mine products could be refined in Montana (instead of being shipped to Belgium, as they are presently), the growing worldwide demand for platinum and palladium for a variety of industrial and investment purposes, political instability in Russia and South Africa, and a superabundance of worrisome economic conditions in certain countries in Asia and the Middle East, not to mention North and South America, the platinum angle can be made to look very promising.

Of course, the only rock-hard "given" in the list above is the geographic location of the platinum reef in the Stillwater Complex. Connecting platinum products to the proposed depository's specialized financial services may turn out to be a real stretch--you can't really count on landing lunkers when you're using 10-lb. test. On the other hand, the lure of platinum may be the best answer yet to why wealthy foreigners would hedge a portion of their fortune in Montana.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

### JULY

July, 4, Independence Day, holiday

July 10, Juvenile Justice and Mental Health Study Commission Public Hearing, Missoula Public Library, Missoula, 7 p.m.

July 11 and 12, Juvenile Justice and Mental Health Study Commission, Holiday Inn Parkside, Missoula

July 25 and 26, EQC Enforcement and Compliance Subcommittee, Room 104

July 30, EQC Environmental Self-Audit Working Group, Room 104

### AUGUST

August 6, Subcommittee on Veterans' Needs, Room 104

August 15, Committee on Public Employee Retirement Systems, Room 104, 8 a.m.

August 23, Committee on State Management Systems, Room 104

August 26, Revenue Oversight Committee, Room 104

August 29, EQC Enforcement and Compliance Subcommittee, Room 104

August 29, EQC MEPA Subcommittee, Room 108

August 30, EQC, Room 104

**SEPTEMBER**

September 2, Labor Day, holiday

September 11, Subcommittee on the Foreign Investment Depository,  
Room 437

September 12 and 13, Legislative Council

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